

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

Charles Currier

v.

Civil No. 12-cv-00132-JL

Wal-Mart Stores East, L.P.

**ORDER AFTER PRELIMINARY**  
**PRETRIAL CONFERENCE**

The Preliminary Pretrial Conference was held in chambers on **July 23, 2012.**

The Discovery Plan (document no. 7) is approved as submitted, with the following changes:

- Summary judgment deadline - **120 days prior to final pretrial conference**
- Jury trial - **October, 2013**

Based on the discussions between the court and counsel at the conference, the following are **stricken** without prejudice to being reinstated on request if warranted by the evidence:

- the following affirmative defenses: second (statute of limitations) and fifth (failure to exhaust).

Count 6: Upon further consideration, the plaintiff shall file a legal memorandum on or before **August 26, 2012** showing cause why Count 6 should not be stricken as (a) barred by the Worker's Compensation Bar; and (b) clearly insufficient to state a claim for intentional infliction of emotional distress under

the established standard set by the New Hampshire Supreme Court. If the plaintiff elects not to proceed with Count 6, counsel should notify the court. (Note: the elimination of Count 6 would not necessarily bar recovery for emotional distress damages on other counts if permitted by applicable law.)

**Summary Judgment.** The parties and counsel are advised that compliance with Rule 56(e) and Local Rule 7.2(b), regarding evidentiary support for factual assertions, and specification and delineation of material issues of disputed fact, will be required.

**Discovery disputes.** Discovery disputes will be handled by the undersigned judge, as opposed to the Magistrate Judge, in the normal course. No motion to compel is necessary. The party or counsel seeking discovery-related relief should confer with adverse counsel to choose mutually available dates, and then contact the Deputy Clerk to schedule a conference call with the court. The court will inform counsel and parties what written materials, if any, should be submitted in advance of the conference call.

Customary motions to compel discovery, while disfavored by the undersigned judge, are nonetheless permissible. If counsel prefer traditional discovery litigation to the conference call procedure set forth above, any such motion to compel should

expressly request, in the title of the motion, a referral to the United States Magistrate Judge. Such referral requests will normally be granted. If the Magistrate Judge is recused, alternate arrangements will be made.

**SO ORDERED.**

A handwritten signature in black ink, reading "Joe Laplante", written over a horizontal line.

Joseph N. Laplante  
United States District Judge

Dated: July 26, 2012

cc: John F. Skinner, III, Esq.  
Christopher B. Kaczmarek, Esq.  
Roberta Limongi Ruiz, Esq.